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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No.

2010 - 257

ACCUSATION

13 **ELLEN SANDERSON, AKA**
14 **ELLEN S. SANDERSON, AKA**
15 **ELLEN SWAN SANDERSON**
11401 Aqua Vista Street
Studio City, CA 91604

16 **Registered Nurse License No. 470486**

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about March 31, 1991, the Board of Registered Nursing (Board) issued
24 Registered Nurse License No. 470486 to Ellen Sanderson (Respondent). The Registered Nurse
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on March 31, 2011, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code unless otherwise indicated.

4 **STATUTORY PROVISIONS**

5 4. Section 490 states:

6 "(a) In addition to any other action that a board is permitted to take against a licensee, a
7 board may suspend or revoke a license on the ground that the licensee has been convicted of a
8 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
9 or profession for which the license was issued.

10 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
11 discipline a licensee for conviction of a crime that is independent of the authority granted under
12 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
13 of the business or profession for which the licensee's license was issued.

14 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
15 conviction following a plea of nolo contendere. Any action that a board is permitted to take
16 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
17 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
18 made suspending the imposition of sentence, irrespective of a subsequent order under the
19 provisions of Section 1203.4 of the Penal Code."

20 5. Section 2750 provides, in pertinent part, that the Board may discipline any licensee,
21 including a licensee holding a temporary or an inactive license, for any reason provided in Article
22 3 (commencing with section 2750) of the Nursing Practice Act.

23 6. Section 2761 states:

24 "The board may take disciplinary action against a certified or licensed nurse or deny an
25 application for a certificate or license for any of the following:

26 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

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1 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
2 functions, and duties of a registered nurse, in which event the record of the conviction shall be
3 conclusive evidence thereof."

4 7. Section 2762 states:

5 "In addition to other acts constituting unprofessional conduct within the meaning of this
6 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
7 chapter to do any of the following:

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9 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
10 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
11 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
12 himself or herself, any other person, or the public or to the extent that such use impairs his or her
13 ability to conduct with safety to the public the practice authorized by his or her license.

14 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
15 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
16 or the possession of, or falsification of a record pertaining to, the substances described in
17 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
18 thereof."

19 8. Section 2764 provides, in pertinent part, that the expiration of a license shall not
20 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
21 to render a decision imposing discipline on the license.

22 REGULATORY PROVISIONS

23 9. California Code of Regulations, title 16, section 1444 states, in pertinent part:

24 "A conviction or act shall be considered to be substantially related to the qualifications,
25 functions or duties of a registered nurse if to a substantial degree it evidences the present or
26 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
27 safety, or welfare."

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1 **COST RECOVERY**

2 10. Section 125.3 provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Conviction of a Substantially Related Crime)**

8 11. Respondent is subject to disciplinary action under section 2761, subdivision (f) and
9 490, as defined in California Code of Regulations, title 16, section 1444, in that on or about
10 September 11, 2008, after pleading nolo contendere, Respondent was convicted of one
11 misdemeanor count of violating Vehicle Code section 23152, subdivision (b) (driving while
12 having a 0.08% or higher blood alcohol) in the criminal proceeding entitled *The People of the*
13 *State of California v. Ellen Swan Sanderson* (Super. Ct. Sacramento County, 2008, No.
14 08T04760). Respondent was placed on probation for three years with terms and conditions and
15 sentenced to 10 days of incarceration. The circumstances are as follows:

16 12. On or about July 26, 2008, a California Highway Patrol (CHP) officer was called to
17 the scene of a two car traffic collision. Respondent's vehicle had rear-ended another vehicle.
18 Upon arriving at the scene, the officer found Respondent in the driver's seat of her vehicle. Upon
19 approaching Respondent, the officer asked her for her vehicle's registration and proof of
20 insurance. Respondent searched for her registration and insurance for several minutes before
21 remembering that she did not have either because she was driving a rental car. The officer
22 observed that Respondent's eyes were red and glassy and that her speech was thick and slurred.
23 The officer then requested that Respondent exit the vehicle. As she got out, she was not able to
24 stand up without leaning on the vehicle. The officer could smell the odor of an alcoholic
25 beverage emitting from her breath. When asked how much alcohol she had consumed,
26 Respondent denied that she had consumed any alcoholic beverage.

27 13. The officer attempted to explain and demonstrate several Field Sobriety Tests
28 (F.S.T.s) to Respondent. Due to Respondent's extreme intoxication, she was unable to perform

1 any of the F.S.T.s as they had been demonstrated or explained. Based on Respondent's objective
2 symptoms of intoxication and the officer's training and experience, the officer determined that
3 Respondent had been driving under the influence of alcohol and placed her under arrest. During
4 the vehicle inventory, the officer discovered a half empty bottle of "Jose Cuervo Black" tequila
5 under the right front seat. Respondent was later transported to the County Jail where she
6 submitted to a Blood Alcohol Test. Her results indicated 0.33% blood alcohol content.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Dangerous Use of Alcohol)**

9 14. Respondent is subject to disciplinary action under section 2761, subdivision (a), as
10 defined in section 2762, subdivision (b), in that on or about July 26, 2008, Respondent used
11 alcoholic beverages to an extent or in a manner dangerous or injurious to herself, and the public,
12 when she operated a vehicle while having a 0.08% and more, by weight, of alcohol in her blood.
13 Complainant refers to, and by this reference incorporates, the allegations set forth above in
14 paragraphs 11 through 13, as though set forth fully.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Conviction Involving the Consumption of Alcohol)**

17 15. Respondent is subject to disciplinary action under section 2761, subdivision (a), as
18 defined in section 2762, subdivision (c), in that on or about September 11, 2008, Respondent was
19 convicted of a crime involving the consumption of alcohol. Complainant refers to, and by this
20 reference incorporates, the allegations set forth above in paragraphs 11 through 13, as though set
21 forth fully.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Registered Nurse License No. 470486, issued to Respondent;
2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 11/9/09

for Stacie Berum
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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